

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 50 - L.D. 83

**An Act to Clarify State Policy Regarding Cannabis Paraphernalia in the
Maine Medical Use of Cannabis Act and the Cannabis Legalization Act**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, in October 2022, the Department of Administrative and Financial Services, Office of Cannabis Policy notified medical use of cannabis registrants and adult use cannabis licensees that they must obtain a retail tobacco license in order to sell or give away certain items used to inhale, ingest or otherwise consume cannabis; and

Whereas, on November 16, 2022, the Attorney General issued a memorandum stating that the Office of the Attorney General would not bring action against any medical use of cannabis registrant or adult use cannabis licensee for selling or providing cannabis rolled for smoking without a retail tobacco license and urging the Legislature to clarify in statute that a retail tobacco license is not required for a medical use of cannabis registrant or adult use cannabis licensee to sell or give away certain items used to inhale, ingest or otherwise consume cannabis; and

Whereas, until statutory clarity is provided, the cannabis industry will face economic and regulatory uncertainty and the state agencies regulating this industry will not be able to oversee the industry in an efficient or effective manner; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §2422, sub-§17 is enacted to read:

17. Cannabis paraphernalia. "Cannabis paraphernalia" means equipment, products, devices and materials that are used for planting, propagating, cultivating, harvesting, processing, preparing, testing, packaging or storing cannabis for medical use or used for ingesting, inhaling or otherwise consuming cannabis for medical use. "Cannabis paraphernalia" includes, but is not limited to:

- A. Kits used for planting, propagating, cultivating or harvesting a cannabis plant;
- B. Isomerization devices used for adjusting the potency of a cannabis plant;
- C. Testing equipment used for identifying or analyzing the potency, effectiveness or purity of a cannabis plant or harvested cannabis;
- D. Scales and balances used for weighing or measuring harvested cannabis;
- E. Separation gins and sifters used for removing twigs and seeds from, or in otherwise cleaning or refining, harvested cannabis;
- F. Envelopes and other containers used for packaging small quantities of harvested cannabis for medical use;
- G. Containers and other objects used for storing harvested cannabis;
- H. Rolling papers, cigarette papers or wraps used for rolling harvested cannabis for smoking;
- I. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, chillums or punctured metal bowls used for smoking harvested cannabis; and
- J. Electronic smoking devices used for simulating the smoking of harvested cannabis or cannabis products through the inhalation of vapor or aerosol from the device.

Sec. 2. 22 MRSA §2423-A, sub-§2, ¶P, as amended by PL 2021, c. 662, §12 and c. 669, §5, is further amended to read:

- P. Operate one caregiver retail store to sell harvested cannabis to qualifying patients for the patients' medical use in accordance with this chapter; ~~and~~

Sec. 3. 22 MRSA §2423-A, sub-§2, ¶Q, as amended by PL 2021, c. 662, §13, is further amended to read:

- Q. Be organized as any type of legal business entity recognized under the laws of the State; ~~and~~

Sec. 4. 22 MRSA §2423-A, sub-§2, ¶S is enacted to read:

- S. Notwithstanding chapter 262-A, sell, offer to sell or furnish cannabis paraphernalia to a qualifying patient, caregiver or registered dispensary for a qualifying patient's medical use of cannabis.

Sec. 5. 22 MRSA §2423-C, as amended by PL 2017, c. 452, §6 and PL 2021, c. 669, §5, is further amended to read:

§2423-C. Authorized conduct

~~A Notwithstanding chapter 262-A, a person may provide a qualifying patient or a caregiver or a registered dispensary with cannabis paraphernalia for purposes of the a~~ A person may be in the presence or vicinity of the medical use of cannabis as allowed under this chapter.

Sec. 6. 22 MRSA §2426, sub-§1, ¶D, as amended by PL 2009, c. 631, §38 and affected by §51 and amended by PL 2021, c. 669, §5, is further amended to read:

D. Operate, navigate or be in actual physical control of any motor vehicle, aircraft, motorboat, snowmobile or all-terrain vehicle while under the influence of cannabis; or

Sec. 7. 22 MRSA §2426, sub-§1, ¶E, as amended by PL 2019, c. 331, §21 and PL 2021, c. 669, §5, is further amended to read:

E. Use or possess cannabis plants or harvested cannabis if that person is not a qualifying patient, caregiver, registered dispensary or other person authorized to use or possess cannabis under this chapter; or

Sec. 8. 22 MRSA §2426, sub-§1, ¶F is enacted to read:

F. Sell, offer to sell or furnish any products containing tobacco, nicotine or synthetic nicotine to any person without first obtaining a retail tobacco license in accordance with chapter 262-A.

Sec. 9. 22 MRSA §2428, sub-§1-A, ¶K, as amended by PL 2021, c. 367, §14, is further amended to read:

K. Hire any number of assistants who are 21 years of age or older to assist in performing the duties of the dispensary; ~~and~~

Sec. 10. 22 MRSA §2428, sub-§1-A, ¶L, as enacted by PL 2017, c. 452, §16 and amended by PL 2021, c. 669, §5, is further amended to read:

L. Transport cannabis plants and harvested cannabis as necessary to carry out the activities authorized under this section; and

Sec. 11. 22 MRSA §2428, sub-§1-A, ¶M is enacted to read:

M. Notwithstanding chapter 262-A, sell, offer to sell or furnish cannabis paraphernalia to a qualifying patient or to a caregiver for a qualifying patient's medical use of cannabis.

Sec. 12. 28-B MRSA §102, sub-§31-A is enacted to read:

31-A. Cannabis paraphernalia. "Cannabis paraphernalia" means equipment, products, devices and materials that are used for planting, propagating, cultivating, harvesting, processing, preparing, testing, packaging or storing adult use cannabis or used for ingesting, inhaling or otherwise consuming adult use cannabis. "Cannabis paraphernalia" includes, but is not limited to:

A. Kits used for planting, propagating, cultivating or harvesting a cannabis plant;

B. Isomerization devices used for adjusting the potency of a cannabis plant;

C. Testing equipment used for identifying or analyzing the potency, effectiveness or purity of a cannabis plant or cannabis;

D. Scales and balances used for weighing or measuring cannabis;

E. Separation gins and sifters used for removing twigs and seeds from, or in otherwise cleaning or refining, cannabis;

F. Envelopes and other containers used for packaging small quantities of cannabis for adult use;

G. Containers and other objects used for storing cannabis;

H. Rolling papers, cigarette papers or wraps used for rolling cannabis for smoking;

I. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, chillums or punctured metal bowls used for smoking cannabis; and

J. Electronic smoking devices used for simulating the smoking of cannabis or cannabis products through the inhalation of vapor or aerosol from the device.

Sec. 13. 28-B MRSA §103, sub-§1, ¶B, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

B. Sell or offer for sale cannabis or cannabis products; ~~or~~

Sec. 14. 28-B MRSA §103, sub-§1, ¶C, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

C. Use, possess, transport, transfer, furnish or purchase cannabis or cannabis products; ~~or~~

Sec. 15. 28-B MRSA §103, sub-§1, ¶D is enacted to read:

D. Sell, offer for sale or furnish any products containing tobacco, nicotine or synthetic nicotine to any person without first obtaining a retail tobacco license in accordance with Title 22, chapter 262-A.

Sec. 16. 28-B MRSA §504, sub-§1, ¶A, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

A. Adult use cannabis; ~~or adult use cannabis products and cannabis paraphernalia;~~

Sec. 17. 28-B MRSA §504, sub-§1, ¶C, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

C. Consumable products not containing cannabis, including, but not limited to, sodas, candies and baked goods; ~~and~~

Sec. 18. 28-B MRSA §504, sub-§1, ¶D, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

D. Any other nonconsumable products, including, but not limited to, apparel and cannabis-related products; ~~and~~

Sec. 19. 28-B MRSA §504, sub-§1, ¶E is enacted to read:

E. Notwithstanding Title 22, chapter 262-A, cannabis paraphernalia for adult use cannabis or adult use cannabis products.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.